

## **REMARKS**

In the Final Office Action, the Examiner objected to claims 1, 4, 10, 11, 14, and 15; and rejected claims 1-16 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,043,477 to Mercer et al. ("*Mercer*").

By this amendment, Applicants propose to amend claims 1 and 3-16, add new claims 17-20, and cancel claim 2. Claims 1 and 3-20 remain pending.

Applicants amend claims 1, 4, 10, 11, 14, and 15 to correct the informalities noted in the Final Office Action. Accordingly, Applicants respectfully request removal of these objections.

Applicants respectfully traverse the rejection of claims 1-16 under 35 U.S.C. § 102(e) as being anticipated by *Mercer*. Because claim 2 is cancelled, the rejection of this claim is moot.

Independent claim 1, as amended, recites an audio playback apparatus, including, "a sound source storing folders, wherein at least one of the folders includes albums, and at least one of the albums includes music files, and wherein the folders, the albums, and the music files are arranged in a hierarchical manner." *Mercer* fails to disclose at least the claimed "albums."

*Mercer* discloses several media playlists located in different directories. *Mercer*, col. 5, lines 38-43. The media files within each playlist are grouped according to certain criterion, such as artist, genre, and album. *Id.* at col. 7, lines 28-30, 47-49. If the playlist is grouped according to artist, for example, a user may play songs within the playlist by a first artist, and then navigate to a second artist, thereby playing songs within the playlist by the second artist. *Id.* at col. 6, lines 14-21. Furthermore, a user

may shuffle among artists (groups) in a playlist, allowing “playback of all songs by a random artist before proceeding to the next random artist.” *Id.* at col. 5, lines 30-37.

Although *Mercer* may group media files in a playlists by album (col. 7, line 30), *Mercer*’s album groupings do not correspond to the claimed “albums.” *Mercer*’s album grouping does not include “music files . . . arranged in a hierarchical manner,” as recited in claim 1 (emphasis added). Instead, “[e]ach playlist includes a flat list of media files and the playlists may be organized in a hierarchical data structure such as illustrated in FIG. 2A.” *Mercer*, col. 5, lines 38-40 (emphasis added). Therefore, while *Mercer*’s playlists are arguably grouped hierarchically in directories (see Figure 2A), the media files within the playlists are grouped as a flat list and not hierarchically. Accordingly, *Mercer* does not disclose “albums,” as recited in claim 1. For at least these reasons, *Mercer* fails to anticipate claim 1.

Independent claims 8, 9, 10, and 14, while of different scope than claim 1, distinguish over *Mercer* for at least the same reasons as claim 1. Claims 3-7, 11-13, and 15-20 depend from one of independent claims 1, 10, and 14.

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered, placing the pending claims in condition for allowance.

In view of the foregoing, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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